

REMARKS

Claims remaining in the present application are Claims 1-20. Claims 1 and 16 have been amended. No new matter has been added as a result of these amendments.

SPECIFICATION

The title of the invention has been objected to. Applicants respectfully assert that the title is reflective of the invention claimed. The title of the specification has been previously amended to read, "Automatic Tracking Of Software Application And Content Usage." Applicants respectfully assert that the title is reflective of the invention as claimed. For example, the pre-ambble to Claim 1 recites, "A method of automatically tracking content usage, and the pre-ambble to Claim 11 recites, "A method of automatically tracking software usage." Thus, the title is clearly reflective of the invention claimed.

Applicants respectfully request an explanation as to why the current title is considered insufficient for proper classification.

DRAWINGS

Applicants will submit formal drawings in due course.

CLAIM REJECTIONS

35 U.S.C. §102

Claims 1 and 3 are rejected under 35 U.S.C. §102(e) as being anticipated by Choate, "Method of and system for monitoring an application," US 2001/0054026 A1 Dec. 20, 2001. The rejection is respectfully traversed for the following reasons.

Claim 1 recites, in part:

b) in response to said first program call, measuring usage for said first portion of content, wherein how much of the content is used is tracked.

Claim 1 is concerned with portions of content related to a calling program. Claim 1 recites that measuring usage of the first portion of content allows tracking of *how much* of the content is used.

In contrast, Choate is concerned with usage statistics of an entire application, such as how many users accessed a program. For example, Choate may track how many licensed users are operating a program. However, Choate does not teach or suggest tracking information about portions of content, as claimed.

For the foregoing reasons, Claim 1 is respectfully believed to be patentable over the prior art.

Claim 3 is respectfully believed to be allowable by virtue of its dependency upon Claim 1.

35 U.S.C. §103

Claim 2

Claim 2 is rejected under 35 U.S.C. §103(b) as being unpatentable over Choate in view of Bezick et al. 5,746,656 (hereinafter, Bezick). The rejection is respectfully traversed for the following reasons.

The rejection concedes that Choate fails to teach tracking levels in a game. Bezick fails remedy this deficiency in that Bezick fails to teach or suggest tracking levels in a game. Rather, Bezick teaches capturing the final score. For example, Bezick at col. 1, lines 19-34 and col. 2, lines 43-58 teaches tracking scoring, but does not teach tracking levels in a game.

Therefore, Claim 2 is respectfully believed to be patentable over the combination of Choate in view of Bezick.

Claims 4-5

Claims 4-5 are rejected under 35 U.S.C. §103(b) as being unpatentable over Choate in view of Nakijima et al. 6,442,669 (hereinafter, Nakijima). The rejection is respectfully traversed for the following reasons.

For reasons discussed in the response to Claim 1, Choate fails to teach or suggest tracking information about portions of content, as claimed. Nakijima fails remedy this deficiency in that Nakijima fails to teach or suggest tracking information about portions of content, as claimed. Rather, Nakijima is concerned with power management, and hence tracks operation status of applications (Nakijima, Abstract).

Therefore, Claim 1 is respectfully believed to be patentable over Choate in view of Nakijima. As Claims 4 and 5 incorporate limitations from Claim 1, Claims 4 and 5 are respectfully believed to be patentable over Choate in view of Nakijima.

Claims 6-8

Claims 6-8 are rejected under 35 U.S.C. §103(b) as being unpatentable over Choate in view of Nakijima and “Official Notice”. The rejection is respectfully traversed for the following reasons.

Claim 7 recites in part:

accessing in a second program call of said plurality a content usage indicator describing how much of a second portion of content was utilized.

With respect to Claim 7, Applicants respectfully assert that modifying Choate and Nakajima with a content usage indicator describing how much of a

portion of content was utilized is contraindicated by Choate. This is because Choate teaches tracking of usage statistics of an entire application, such as how many users accessed a program. Therefore, Claim 7 is respectfully believed to be patentable over Choate and Nakajima and "Official Notice."

Moreover, Applicants do not concede that "a content usage indicator describing how much of a portion of content was utilized," is known in the art. Applicants respectfully request that the Examiner produce documentary evidence of a "content usage indicator describing how much of a portion of content was utilized," as recited in Claim 7.

For all of the forgoing reasons, Claim 7 is respectfully believed to be patentable over Choate and Nakajima and "Official Notice."

Applicants further argue that Claims 6-8 are patentable over Choate in view of Nakajima and "Official Notice" by virtue of their dependency on Claim 1, which is believed to be patentable over this combination for the following reasons. Claim 1 recites, wherein how much of the content is used is tracked. Applicants respectfully assert that modifying Choate and Nakajima with a content usage indicator describing how much of a portion of content was utilized is contraindicated by Choate. This is because Choate teaches tracking of usage statistics of an entire application, such as how many users accessed a program. Therefore, Claim 1 is respectfully believed to be patentable over

Choate and Nakajima and “Official Notice.” Therefore, Claims 6-8 are respectfully believed to be allowable.

Claims 9-15

Claims 9-15 are rejected under 35 U.S.C. §103(b) as being unpatentable over Choate in view of “Official Notice”. The rejection is respectfully traversed for the following reasons.

Claim 9

Claim 9 is rejected over Choate in view of “Official Notice” of “tabulating usage data.” For reasons discussed herein, Claim 1 is respectfully believed to be patentable over Choate in that the limitations of Claim 1 of “wherein how much of the content is used is tracked,” is not taught or suggested by Choate. Official Notice of “tabulating usage data” does not remedy this deficiency. Therefore, Claims 1 and 9 are respectfully believed to be patentable over Choate in view of Official Notice of “tabulating usage data.”

Claim 10-13

Claims 10-13 are rejected over Choate in view of “Official Notice” of “software having a plurality of versions” and “merging or not merging the usage data for same versions of software.” Applicants do not concede that the prior art teaches “merging or not merging the usage data for same versions of software. Furthermore, Applicants respectfully request documentary

evidence of “merging or not merging the usage data for same versions of software.”

Claim 10

Further, Applicants assert that Choate in view of “Official Notice” fails to teach or suggest, “associating a unique identifier with said software program for at least two of said plurality of versions; and, wherein said content usage collected on said plurality of devices for said at least two versions of said software program is merged,” as recited in Claim 10. The rejection appears to concede that Choate fails to teach these limitations. Applicants respectfully assert that “Official Notice” does not remedy this deficiency. Therefore, Claim 10 is believed to be patentable over the prior art.

Claim 11

Further, Applicants assert that Choate in view of “Official Notice” fails to teach or suggest, “associating a unique identifier with said usage data for at least two of said plurality of versions; and, wherein said content usage collected on said plurality of devices for said at least two versions of said usage data is merged,” as recited in Claim 11. The rejection appears to concede that Choate fails to teach these limitations. Applicants respectfully assert that “Official Notice” does not remedy this deficiency. For example, the Official Notice in no way teaches or suggest the claimed limitations of

association of a unique identifier with usage data. Therefore, Claim 11 is believed to be patentable over the prior art.

Claim 12

Claim 12 recites:

wherein said plurality of versions are selected from the group comprising software versions and language versions.

Applicants assert that Choate in view of "Official Notice" fails to teach or suggest, "wherein said plurality of versions are selected from the group comprising software versions and language versions," as recited in Claim 12. The rejection appears to concede that Choate fails to teach these limitations. Applicants respectfully assert that "Official Notice" does not remedy this deficiency. For example, the Official Notice in no way teaches or suggests the claimed limitations of language versions. Therefore, Claim 12 is believed to be patentable over the prior art.

Claim 13

Claim 13 is believed to be patentable over the prior art based on its dependency from Claim 11, which is believed to be patentable over the prior art for reasons above.

Claims 14-15

Claims 14-15 are respectfully believed to be allowable by virtue of their dependency from Claim 11, which is believed to be allowable over Choate.

Further, the rejection assert that Choate at paragraph 20 teaches usage of content file segments while execution of each individual segment. Applicants have carefully reviewed Choate, including paragraph 20, and have not found any explicit teaching of “segments” in Choate. For at least the foregoing reasons, Applicants respectfully assert that Choate does not teach or suggest the limitations in Claim 14 of “wherein said usage data describe the amount of content associated with said software program was used during an execution of said program.” For these additional reasons, Claim 14 is respectfully believed to be allowable over the prior art.

Claims 16-20

Claims 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al. U.S. Pat. No. 5,796,952 (hereinafter, Davis) in view of applicants admitted prior art (AAPA). The rejection is respectfully traversed for the following reasons.

Amended Independent Claim 16 recites, in part:

a) accessing a call from a software program, said call specifying a first content identifier, said first content identifier identifying a first portion of content related to said software program whose usage is to be measured;

b) in response to said call, measuring usage for the first portion of content associated with said first content identifier;

c) until said software program stops execution, repeating said steps a) through b) for a plurality of calls specifying a plurality of content identifiers that identify a respective plurality of portions of content, wherein said content usage is tracked for said plurality of content identifiers; and

d) outputting said content usage.

Applicants respectfully assert that Davis fails to teach or suggest the limitations of Claim 16. Davis is concerned with monitoring data related to whole applications. For example, Davis may teach a software timer for monitoring the amount of time the client spends interacting with and displaying the file downloaded from the first server (Abstract). However, Applicants respectfully assert that Davis fails to teach or suggest the claimed limitations of measuring usage for the first portion of content associated with said first content identifier.

Applicants respectfully assert that AAPA fails to remedy these deficiencies of Davis in that the combination of Davis and AAPA fail to teach

or suggest the claimed limitations of measuring usage for the first portion of content associated with said first content identifier. The AAPA may monitor application usage in terms of duration and battery usage on the device.

However, this does not teach the claimed measuring usage portions of content associated with said first content identifier. Rather, the prior art appears to be able to track the number of times an application was launched, the last time/date that an application was launched, the battery usage of the application, the total accumulated time that an application has run, and a ranking based on the number of times the application was launched. Thus, the combination of Davis and AAPA fail to teach or suggest the claimed limitations of measuring usage for the first portion of content associated with said first content identifier.

For the forgoing reasons Claim 16 is neither taught nor suggested by Davis in view of AAPA. Therefore, Applicants respectfully request allowance of Claim 16.

Claims 17-20 are respectfully believed to be allowable based on their dependency from Claim 16.

CONCLUSION

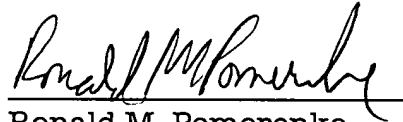
In light of the above listed amendments and remarks, reconsideration of the rejected claims is requested. Based on the arguments and amendments presented above, it is respectfully submitted that Claims 1-20 overcome the rejections of record and, therefore, allowance of Claims 1-20 is solicited.

Should the Examiner have a question regarding the instant amendment and response, the Applicants invite the Examiner to contact the Applicants' undersigned representative at the below listed telephone number.

Respectfully submitted,

WAGNER, MURABITO & HAO LLP

Dated: 8/19, 2004



Ronald M. Pomeranke
Registration No. 43,009

Address:

WAGNER, MURABITO & HAO LLP
Two North Market Street
Third Floor

Telephone:

San Jose, California 95113
(408) 938-9060 Voice
(408) 938-9069 Facsimile